

ARKANSAS SUPREME COURT

No. 06-786

NOT DESIGNATED FOR PUBLICATION

ROBERT LOUIS SALTER, JR.
Petitioner

v.

HON. J. W. LOONEY, CIRCUIT
JUDGE
Respondent

Opinion Delivered December 7, 2006

PRO SE MOTION FOR RECON-
SIDERATION OF PETITION FOR
WRIT OF MANDAMUS [CIRCUIT
COURT OF POLK COUNTY, CV 2002-
170]

MOTION DENIED.

PER CURIAM

In 2002, the State of Arkansas filed in the Circuit Court of Polk County a civil complaint seeking forfeiture of certain items seized pursuant to the execution of a search warrant.¹ Petitioner Robert Louis Salter, Jr., one of the alleged owners of the property at issue, filed an answer to the complaint through his attorney. On April 13, 2005, the court entered an order granting petitioner's attorney's motion to be relieved as counsel in which the court directed that the attorney turn his case file over to petitioner. Petitioner subsequently filed a *pro se* "counterclaim" to the State's complaint, a motion for summary judgment, and a motion to dismiss for want of prosecution. On March 8, 2006, the court entered an order dismissing the State's complaint without prejudice.

On July 18, 2006, petitioner filed in this court a *pro se* petition for writ of mandamus in

¹*State v. One Smith & Wesson Model 34 Revolver and Sixty Other Seized Firearms; Seized Ammunition of Various Calibers in Excess of 28,000 Rounds; and Two Pair of ITT Night Vision Goggles*, CV 2002-170.

which he sought a writ directing Circuit Judge J. W. Looney to “execute an order replevying to [petitioner] the property that was seized from petitioner, and made a part of the forfeiture case” Petitioner argued that the court’s order dismissing the State’s complaint did not return his property to him and was thus inadequate. As we could not say from the petition before us or the partial record lodged with the petition that petitioner had met his burden of demonstrating that he was entitled to a writ of mandamus, the mandamus petition was denied. *Salter v. Looney*, 06-786 (Ark. Sept. 28, 2006) (*per curiam*).

On October 31, 2006, petitioner filed the instant motion asking that this court reconsider the petition for writ of mandamus. In the motion, petitioner essentially reiterates the arguments raised in the original petition.

The purpose of a writ of mandamus in a civil or a criminal case is to enforce an established legal right or to enforce the performance of a duty. *Smith v. Fox*, 358 Ark. 388, 193 S.W.3d 238 (2004). When requesting a writ of mandamus, a petitioner must show a clear and certain right to the relief sought and the absence of any other adequate remedy. *Manila School Dist. No. 15 v. Wagner*, 357 Ark. 20, 159 S.W.3d 285 (2004). Petitioner urges this court to fashion a remedy to resolve the problem of his unreturned property, but the burden is on petitioner to proceed in circuit court with an appropriate pleading to establish the ownership of the property and his entitlement to its return.

Finally, petitioner asks that our original *per curiam* opinion of September 28, 2006, denying the mandamus petition be designated for publication. As he has failed to advance any ground that warrants publishing the opinion, the request is denied.

Motion denied.